

FILED
DEC 12 2008

CLERK OF SUPREME COURT
STATE OF WASHINGTON

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

IN THE WASHINGTON STATE
SUPREME COURT
BY RONALD R. CARPENTER

Case No. 82029-5
Richard Henry Mutch CLERK

82029-5

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Richard Mutch, have received and reviewed the Opening Brief prepared by my attorney. Summarized below is an additional Ground for Review that was not addressed in that Brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

ADDITIONAL GROUND #1

(EFFECTIVE DATE OF INITIATIVE 593 POAA)

The prosecution held at page 3 of its Findings of Fact and Conclusions of Law that: "The State of Washington has given adequate notice to defendant Mutch that a sentence exceeding the presumptive standard range was being sought by the State, through the imposition of the "Persistent Offender" sentencing in 1994."

However, what the State has not told this honorable Court is that the "Persistent Offender" sentence of 1994 was UNLAWFULLY given to your appellant.

FACT: The secretary of state shall keep a record of the official acts of the legislature,... " Const. Art. III, § 17. No act, law, or bill subject to referendum shall take effect until ninety days after the adjournment of the session at which it was enacted. Const. Art. II, § 41. The Secretary of State held in Laws of Washington, 1994 VOLUME I at page [ii] **EFFECTIVE DATE OF LAWS** that Initiative 593 [POAA] became **EFFECTIVE** on "June 9, 1994."

Appellate court, Division Two held in State v. Ball, 127 Wn.App. 956 at 958(2005) that: "The legislature enacted the POAA in 1994." The BALL court went on to clarify that "...the POAA is neither an exceptional sentencing statute subject to a Blakely analysis nor is it an enhanced sentence statute." Ball at 957 ¶ 1.

The Whatcom County Administration of Injustice System appears to circumvent its MANDATORY "Notice of Intent" obligation [To be placed in the original unlawful Prosecutor's Information] by spawning forth that: "The State of Washington has given adequate notice to defendant Mutch that a sentence exceeding the presumptive standard range was being sought by the State, through the imposition of the "Persistent Offender" sentencing in 1994." Source: "Findings of Fact and Conclusions of Law at page 3 July 31, 2008.

However, "Initiative 593 [POAA] did not become EFFECTIVE until June 9, 1994. I WAS ARRESTED ON 3 FEBRUARY 1994! And this Court held in PILLATOS that: "A defendant is subject to the penalty in place the day the crime was committed. After the fact, the State may not increase the punishment." State v. Pillatos, 159 Wn.2d 459, 475(2007). Thereby, I could not have been LAWFULLY given a LWOP Sentence. And, once again, the illegal LWOP Sentence could not have been relied on by the State as some "jury rigged" Notice of Intent!

The damage this UNLAWFUL LWOP Sentence has caused me may be irreparable. For instance the LWOP Sentence has forced me to remain in a CLOSE CUSTODY Prison [For my entire 14-years in the DOC] where everyday I am confronted with heightened degrees of danger. And cut off from freedoms and programs only found in MEDIUM CUSTODY Institutions. Money cannot fully redeem these forever lost opportunities. But I do feel confident that the Whatcom County Commissioners [the ones David McEachran lied to and ripped off] will want to amply compensate me for the TRAUMA these some 14-years of heightened security confinement has, by virtue of the Beast, visited on me. Sometimes in double measure.

Sincerely submitted by:

/s/: Richard Mutch

Richard Mutch, in pro se
#730230, C unit 3-27
Washington State Reformatory
P.O. BOX 777
Monroe, Wa. 98272-0777

Dated this: 9th day of: December 2008.

P.2 NOTICE: This Statement of Additional Grounds for Review is solely in regards to the UNLAWFUL Re-Sentencing Hearing of 31 July 2008.